

CLEARY GOTTlieb STEEN & HAMILTON LLP

One Liberty Plaza
New York, NY 10006-1470

T: +1 212 225 2000

F: +1 212 225 3999

clearygottlieb.com

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SUSANNA E. PARKER
DAVID W.S. YUDIN
RESIDENT COUNSEL
LOUISE M. PARENT
OF COUNSEL

October 22, 2020

VIA ECF

The Honorable Alison J. Nathan
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

Re: *In re Application of Benjamin Steinmetz for an Order to Take Discovery from Vale S.A., Vale Americas Inc., Rio Tinto plc, and Rio Tinto Limited Pursuant to 28 U.S.C. § 1782, Case No. 20-mc-00212-AJN (S.D.N.Y.)*
(the “Application”)

Dear Judge Nathan:

We write on behalf of Respondents Vale S.A. and Vale Americas Inc. (collectively, “Vale”) to advise the Court of today’s development in the underlying foreign proceeding before the High Court of England and Wales (the “High Court”), captioned Vale S.A. v. Steinmetz, No. CL-2019-000723 (the “English Proceedings”), in which both Petitioner Benjamin Steinmetz and Respondent Vale S.A. are parties.

Steinmetz’s Application acknowledged that “[i]n *Intel*, the Supreme Court explained that where the person from whom discovery is sought is a participant in the foreign proceeding, ‘the need for § 1782(a) aid is generally not as apparent’ because the ‘foreign tribunal has jurisdiction over those appearing before it, and can itself order them to produce evidence.’” Memorandum of Law in Support of the Application, ECF No. 3, at 23-24 (quoting *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 244 (2004)). The Application offered two arguments to overcome this admonition: (i) “the discovery phase in the UK Proceeding will not commence until at least five months from now (or perhaps longer in the future)” and thus “critical evidence that support his defenses would be destroyed by the time the London court might order their disclosure in the

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UK Proceedings,” *id.* at 24, and (ii) “Vale sought and obtained the freezing of Mr. Steinmetz’s assets” rendering it “critical” to obtain discovery immediately “as opposed to waiting until the UK Proceedings advance to a discovery stage,” *Id.*

As anticipated in Vale’s Opposition to Petitioner’s Application (the “Opposition”), Mr. Justice Andrew Baker of the High Court today held a Case Management Conference (“CMC”). At the CMC, the High Court ordered that Vale produce a substantial set of documents no later than November 5, 2020 and set a deadline of March 22, 2021 for the conclusion of document production by all of the parties. We anticipate that this will be memorialized in a formal order in the coming days.

Having presented this development to the Court, Vale refrains from offering any argument so as to avoid any need for dueling letters and responses from the parties. Should Steinmetz seek and receive leave to offer supplemental argument on the viability of his Application in light of this development, Vale reserves the right to do the same.

Thank you for Your Honor’s consideration.

Respectfully submitted,

/s/ Jeffrey A. Rosenthal

Jeffrey A. Rosenthal

cc: All Counsel of Record (via ECF)